

Committee on Ways and Means

SUMMARY: *Health Opportunity Patient Empowerment Act of 2006*

Allows employees to fund Health Savings Accounts (HSA) with Flexible Spending Account (FSA) and Health Reimbursement Arrangement (HRA) Funds

Today, unused FSA benefits expire two and a half months after the end of a year. HRAs are employer arrangements which allow employees to draw against employer resources. Under current law, neither account may be used to fund an HSA, nor do FSAs and HRAs belong to the employee as HSAs do. As a result, employees may lose FSA and HRA benefits.

Under this bill, employees would have the ability to start an HSA by making a one-time tax-free transfer of FSA and HRA amounts in their accounts as of September 21, 2006 to an HSA which would belong to the employee. The transfer must be made before January 1, 2012.

Repeal of Annual Deduction Limitation on HSA Contributions

Currently, taxpayers with a high-deductible health plan are permitted to make deductible contributions to a Health Savings Account equal to the lesser of the amount of the high deductible or an indexed amount (currently \$2,700 for a single coverage and \$5,450 for family coverage).

The bill simplifies compliance with the contribution limits by setting the limits at indexed amounts (currently \$2,700 for single coverage and \$5,450 for family coverage).

Modification of Cost of Living Adjustment

Under current law, the deductible requirements and contribution limits are indexed against inflation.

The bill requires the Secretary of the Treasury to announce adjustments to the amounts by June 1st of each year – simplifying planning decisions for both employees and employers.

Expanded Contribution Limit for Part-Year Coverage

Present law limits taxpayers creating an HSA during the year to a deduction of no more than one-twelfth of the annual limit for each month the taxpayer is eligible for an HSA, but subjects taxpayers to the full non-prorated high deductible amount – effectively discouraging HSA adoption.

The bill would permit taxpayers starting an HSA during the year to contribute an amount up to the full annual limit. Taxpayers would be required to maintain a high deductible plan for a full year beginning in the month the HSA begins or pay tax on the contribution and a 10 percent penalty. The recapture of HSA benefits would not apply in cases of disability, death or the taxpayer's becoming eligible for Part A Medicare benefits.

Additional Employer Contributions for Non-Highly Compensated Employees

Present law requires employers to make comparable contributions to an HSA for all employees.

Under the bill, an employer may make higher contributions for non-highly compensated employees, thus permitting employers to provide additional resources to employees who are neither owners of 5 percent or more of the business nor among the most highly-paid in the company.

Transfers from Individual Retirement Accounts to Health Savings Accounts

Under present law, a taxpayer cannot withdraw funds from an IRA prior to age 59 ½ without paying a 10 percent penalty in addition to income tax (if any) on IRA funds. This rule effectively discourages taxpayers from using savings in an IRA to start an HSA.

The bill allows taxpayers to make a one-time distribution from an IRA to an HSA so HSA funds are immediately available to meet family health needs. The “roll-over” cannot exceed the HSA contribution limit for the year and is subject to the recapture taxes applicable to the part year coverage provision described above.